

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

**KATIE MILLIO, IRENE JOHNSON,
JANINE HELLER and TOMAYITA
STEVENSON,**

Plaintiffs,

vs.

**WHITMAN EDUCATION GROUP,
INC., CAREER EDUCATION
CORPORATION, ULTRASOUND
DIAGNOSTIC SCHOOL and LOUIS
GIANNELLI,**

Defendants.

CASE NUMBER: 04-30130-MAP

**DEFENDANTS' SCHEDULE OF FEES CONCERNING THEIR
MOTION TO COMPEL PLAINTIFF JOHNSON
TO PROVIDE VERIFIED INTERROGATORY RESPONSES**

I. INTRODUCTION

In response to Magistrate Kenneth P. Neiman's Order, dated October 5, 2005, Defendants Whitman Education Group, Inc., Career Education Corporation and Ultrasound Diagnostic School (collectively "Corporate Defendants" or "CD") jointly with Defendant Louis Giannelli (collectively "Defendants"), by and through the undersigned counsel, hereby submit this Schedule of Fees for their past efforts and that part of their Motion to Compel related to the failure of Plaintiff Irene Johnson to provide a verification for her Interrogatory Responses.

II. DESCRIPTION AND SCHEDULE OF FEES INCURRED

A. Despite that Johnson's Interrogatory Responses Were Due June 3, She Only Provided Verified Responses After Defendants Filed A Motion to Compel.

By stipulation of counsel, Johnson's written responses to Corporate Defendants and Defendant Giannelli's Interrogatories were due on June 3, 2005. However, Plaintiffs' counsel did not provide Johnson's verified responses by that date. On June 30, Corporate Defendants' counsel wrote to Plaintiffs' counsel complaining of the lack of responses from Johnson. On July 7, Johnson provided written interrogatory responses, but without a verification. On July 8, Corporate Defendants' counsel again wrote to Plaintiffs' counsel to complain of the lack of a verification and on July 11, Plaintiffs' counsel represented in writing that Johnson's verification would be forthcoming that week. On July 20, and again on July 28, Giannelli's counsel reiterated in writing Defendants' complaint that no verification had been provided for Johnson's responses. (See Correspondence at Motion Exhibit E).

Defendants then jointly prepared a Motion to Compel discovery, including to compel Plaintiff Johnson to submit verified Interrogatory Responses, which was filed on August 26, 2005. Plaintiffs' Opposition to Defendants' Motion, filed September 13, failed to give any explanation for why, three and a half months after they were due, Johnson still had not provided verified responses to Defendants' Interrogatories. On September 23, Defendants filed a Reply to Plaintiffs' Opposition to the Motion. Only after that time, on September 28, did Plaintiff Johnson provide her verifications to her Responses to Defendants' Interrogatories.

B. Attorneys' Fees Incurred

Based on usual and normal hourly billing rates, the attorneys' fees incurred in rendering these services total \$960.00 for Corporate Defendants and \$690.00 for Defendant Giannelli.

The Declaration of Jamie M. Kohen, counsel for Corporate Defendants, filed in conjunction with the instant Schedule, attests to the attorneys' fees incurred by Corporate Defendants by Morgan, Lewis & Bockius LLP in the efforts to obtain Plaintiff Johnson's verification. The following is a summary of the hours worked and rate of the attorney engaged in this endeavor:

ATTORNEY	HOURS	RATE	TOTAL FEES
Jamie M. Kohen	3.2	\$300	\$ 960.00

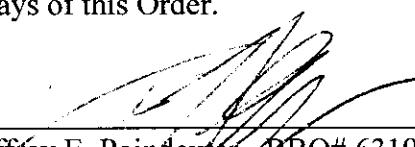
The Declaration of Christopher R. O'Hara, counsel for Defendant Giannelli, also filed in conjunction with the instant Schedule, attests to the attorneys' fees incurred by Defendant Giannelli by Todd & Weld LLP in the efforts to obtain Plaintiff Johnson's verification. The following is a summary of the hours worked and rate of the attorney engaged in this endeavor:

ATTORNEY	HOURS	RATE	TOTAL FEES
Christopher R. O'Hara	2.3	\$300	\$690.00

III. CONCLUSION

Defendants respectfully request that the Court order Plaintiff Johnson to remit payment to Defendant Career Education Corporation in the amount of \$960.00 and to Defendant Louis Giannelli in the amount of \$690.00 within thirty (30) days of this Order.

Dated: October 14, 2005



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DECLARATION OF JAMIE M. KOHEN

I, Jamie M. Kohen, depose and state as follows:

1. I am an associate at Morgan, Lewis & Bockius LLP, where I have worked as an attorney since 2003.

2. This Firm has been retained by Career Education Corporation ("CEC") to serve as CEC's lead outside counsel in the above-referenced matter. I have been fully involved in all aspects of this litigation on behalf of CEC, including our discovery efforts over the past six months, and I accordingly make this affidavit on firsthand knowledge and based upon information provided to me in the course of the litigation.

3. Pursuant to the Order of Magistrate Kenneth P. Neiman, dated October 5, 2005, Defendants were granted fees relating to the filing of and pursuit of the portion of its Motion To Compel related to its efforts to obtain Plaintiff Johnson's Interrogatory

Response verifications.

4. CEC's attorneys' fees by Morgan, Lewis & Bockius LLP incurred in its efforts to obtain Plaintiff Johnson's verification totaled \$960.00.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing information is true and correct, based upon my knowledge, information and belief.

/s/ Jamie M. Kohen

Jamie M. Kohen

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Defendants.

DECLARATION OF CHRISTOPHER R. O'HARA

I, Christopher R. O'Hara, depose and state as follows:

1. I am a partner at Todd & Weld LLP, where I have worked as an attorney since 1993.
2. This Firm has been retained by Louis Giannelli to serve as counsel in the above-referenced matter. I have been fully involved in all aspects of this litigation on behalf of Defendant Giannelli, including our discovery efforts over the past six months, and I accordingly make this affidavit on firsthand knowledge and based upon information provided to me in the course of the litigation.

3. Pursuant to the Order of Magistrate Kenneth P. Neiman, dated October 5, 2005, Defendants were granted fees relating to the filing of and pursuit of the portion of its Motion To Compel related to its efforts to obtain Plaintiff Johnson's Interrogatory

Response verifications.

4. Giannelli's attorneys' fees by Todd & Weld LLP incurred in its efforts to obtain Plaintiff Johnson's verification totaled \$690.00.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing information is true and correct, based upon my knowledge, information and belief.

/s/ Christopher R. O'Hara

Christopher R. O'Hara

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**ORDER APPROVING DEFENDANTS' SCHEDULE OF FEES
CONCERNING THEIR MOTION TO COMPEL PLAINTIFF JOHNSON
TO PROVIDE VERIFIED INTERROGATORY RESPONSES**

AND NOW this ____ day of _____, 2005, upon consideration of Defendants' Schedule of Fees Concerning Their Motion to Compel Plaintiff Johnson to Provide Verified Interrogatory Responses, and any responses thereto, it is hereby ORDERED that said **SCHEDULE IS APPROVED**, and Plaintiff Johnson must remit payment to Defendant Career Education Corporation in the amount of \$960.00 and to Defendant Louis Giannelli in the amount of \$690.00 within thirty (30) days of this Order.

Magistrate Kenneth P. Neiman